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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

ALEXANDER MIRONOV,

Plaintiff and Appellant,

v.

NATASHA MIRONOV,

Defendant and Respondent.

B206527

(Los Angeles County
Super. Ct. No. SQ002909)

APPEAL from an order of the Superior Court of Los Angeles County,

Ross H. Williams, Judge. Affirmed.

Alexander Mironov, in pro. per. for Plaintiff and Appellant.

Law Office of Paul H. Samuels and Paul H. Samuels for Defendant and
Respondent.

In this appeal, appellant Alexander Mironov (Alexander), challenges a trial court's decision to not award him attorney's fees in a civil harassment lawsuit which he successfully brought against his sister, respondent Natasha Mironov (Natasha). Alexander has presented this court with a deficient clerk's transcript and a deficient opening brief. Because judgments and orders of a court are presumed to be correct and error must be affirmatively shown, and because Alexander has not made that affirmative showing, we will affirm the order from which he has appealed.

BACKGROUND OF THE CASE

This case commenced with Alexander's request for a restraining order against Natasha. Missing from the clerk's transcript are Alexander's petition for the restraining order, and Natasha's answer to that petition. In assessing Alexander's request for attorney's fees, the trial court would necessarily have reviewed the work that Alexander's attorney put into this case, and that work would have included drawing up the written request for the restraining order, and reviewing Natasha's answer to that request. Because those papers were not included in the clerk's transcript, we are unable to examine all of the matters which the trial court examined in making its decision to deny attorney's fees. The clerk's transcript only includes the following papers: Alexander's objection to portions of Natasha's answer to his request for a restraining order; Alexander's motion for attorney's fees in connection with the restraining order

that he received against Natasha; and Natasha's opposition to the motion for attorney's fees.¹

In his opening brief on appeal, Alexander presents an essentially one-page statement of facts containing a few citations to the reporter's transcript of the hearing on his request for the restraining order. Many of the matters in the statement of facts are not supported by those citations. California Rules of Court, rule 8.204 specifically states that each appellate brief must confine statements of fact to matters that are in the appellate record, and statements about matters in the appellate record must be supported by a citation to the exact page number of the record (clerk's transcript or reporter's transcript) where the matter appears.

Two of Alexander's citations show why the trial court determined that a restraining order against Natasha should be granted. The court stated it found that circumstances involving officers in the Santa Monica Police Department coming to an apartment building at a time when Alexander was at that building "appear to be somewhat manufactured. And the court gets the sense from listening to the testimony . . . that the whole thing was something of a setup, and that somehow . . . [Natasha] was—it was a cinch to get an order and then a cinch to get the police to arrest [Alexander], regardless of whether he did or hadn't done something. And the court does not want to see people using the judicial and police systems in such a cavalier way. And I think that here we have a situation where the police—

¹ The appellate record was augmented with a partial reporter's transcript of court proceedings in an unlawful detainer action filed by Natasha against Alexander.

understanding that [Alexander] might have had a gun, . . . would have had to take him to the ground, and it was an alarming—sounds like an alarming situation. I think that in itself is harassment when somebody has to go through something like that.”

DISCUSSION

Alexander asserts he was denied an opportunity to respond to the argument that Natasha made at the hearing on his motion for attorney’s fees.² The record shows that at the hearing on that motion, the court had the clerk swear the parties for testimony, and then informed them that it had read their papers and had the authority to decide the motion on the papers alone, without taking any testimony from them, but it would permit them to comment on what they thought the court needed to know beyond their papers. The court added that it would not “take a lot of testimony.” After the court heard from both parties, it made its ruling. There was no abuse of discretion in not permitting Alexander additional time to comment on Natasha’s presentation. The court specifically stated, after it made its ruling, that it decided the motion on the basis of the parties’ papers, which it found to be competently prepared, and further stated that it gave very little weight to the parties’ oral presentations because they “didn’t add to the paperwork” that had been filed by their attorneys.

Nor can we agree with Alexander’s assertion that the trial court failed to state its reasons on the record for denying him attorney’s fees. The court stated that Family

² At the hearing on the request for attorney’s fees, Natasha and Alexander made their own presentations to the court. Alexander was in propria persona by that time, and Natasha’s attorney was not at the hearing.

Code section 6344, subdivision (a)³ gives the court discretion in whether to award attorney's fees and costs to the prevailing party in a restraining order matter and thus the statute "is a permissive section, it's not a mandatory section." The court further stated that (1) Natasha's attorney "filed significant papers in opposition to the motion [for fees]," (2) the opposition "is persuasive," and (3) the amount of the fees requested by Alexander (\$15,470.50) was "outrageous for a restraining order." Additionally, the court stated that given "the totality of the evidence—including the court has taken judicial notice of the unlawful detainer trial and the findings made by the judge in that case—the court finds that there is—it would be inappropriate to award attorney's fees to either side for the restraining order."

We find no abuse of discretion in the trial court's taking judicial notice of the unlawful detainer action filed by Natasha against Alexander in which Natasha prevailed. Judicial notice is provided for in Evidence Code section 452. Although Alexander states the unlawful detainer case is not relevant to the question whether he should have been awarded attorney's fees, he does not explain why it is not relevant, and clearly the trial court believed there was relevance.

³ Family Code section 6344, subdivision (a) states: "After notice and a hearing, the court may issue an order for the payment of attorney's fees and costs of the prevailing party."

DISPOSITION

The order from which Alexander has appealed is affirmed. Costs on appeal to Natasha.

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CROSKEY, J.

WE CONCUR:

KLEIN, P. J.

KITCHING, J.